

ORIGINAL RECEIVED
FILE

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAR 19 1991

Federal Communications Commission
Office of the Secretary

In re

Petition for Rule Making
to Amend Section 73.202(b)
Table of Allotments,
FM Broadcast Stations
(Cleveland and Belzoni,
Mississippi)

MM Docket No. 92-157

RM No. 7462

TO: Douglas W. Webbink, Chief
Policy and Rules Division
and
Larry D. Eads, Chief
Audio Services Division

FURTHER SUPPLEMENT TO PETITION FOR RECONSIDERATION

Larry G. Fuss d/b/a Contemporary Communications ("Fuss"), licensee of WQAZ(FM), Cleveland, Mississippi, and successor in interest to Robert G. Johnston, Trustee, (pursuant to FCC File No. BALH-901102GZ), by counsel, hereby submits this Further Supplement to the Petition for Reconsideration pending in the above-referenced matter.

On November 19, 1990, Fuss, in cooperation with the then-licensee, Robert G. Johnston, Trustee, submitted a Petition for Reconsideration of the rejection of a Petition for Rulemaking, the object of which was to seek an upgrade in class via a channel change for WQAZ(FM). The Petition was rejected as defective based upon a grant of a pending application for a construction permit on Channel 225A at Belzoni, Mississippi, after the Petition for Rulemaking was filed. Fuss therefore urged that the Petition for


Rulemaking be reinstated, as it was acceptable when filed, and that the grant of the Belzoni applicant, Larry R. Scott ("Scott"), be rescinded as granted in error.

Scott has been served with a copy of all pleadings filed in connection with this Petition for Reconsideration and has not objected. Furthermore, Scott and Fuss have come to an agreement whereby Scott confirms that he has no objection to the pending Petition for Reconsideration or to the Petition for Rulemaking as originally filed or to the rescission of the grant of his application, if necessary, or to the modification of his permit to specify the channel requested in the original Petition for Rulemaking. A copy of this Agreement is attached for the record.

We are therefore supplementing the Petition for Reconsideration to request that the original Petition for Rulemaking be reinstated, as modified by this filing and agreement, to reflect that the Belzoni permittee has agreed to the channel change (and resulting site move) requested.

Respectfully submitted,

LARRY C. FUSS

By: 
Barbara L. Waite
Venable, Baetjer, Howard
& Civiletti
1201 New York Ave. N.W.
Suite 1000
Washington, DC 20005
(202) 962-4811

His Counsel

March 19, 1991

CERTIFICATE OF SERVICE

I, Angela R. Pomeroy, a secretary in the offices of Venable, Baetjer, Howard & Civiletti, hereby certify that a copy of the foregoing "Further Supplement to Petition for Reconsideration" was served via first-class, U.S. Mail, upon the following this 19th day of March, 1991.

*Douglas W. Wibbink, Chief
Policy and Rules Division
Mass Media Bureau
2025 M Street, N.W., Room 8010
Washington, D.C. 20554

*Larry D. Eads, Chief
Audio Services Division
Mass Media Bureau
1919 M Street, N.W., Room 302
Washington, D.C. 20554

Larry R. Scott
1605 Carlisle Dr. E.
Mobile, AL 36618



*Served by hand-delivery.

AGREEMENT

This Agreement is between Larry G. Fuss, d/b/a Contemporary Communications, Inc. ("Contemporary Communications"), P.O. Box 159, Fayetteville, Georgia 30214, as successor in interest to Robert G. Johnston, Trustee, licensee of WQAZ(FM), Cleveland, Mississippi, and Larry R. Scott ("Scott"), 1605 Carlisle Drive East, Mobile, Alabama 36618, applicant for/permittee of Channel 225A, Belzoni, Mississippi (FCC File No. BPH-870327KD) for the following purpose. Contemporary Communications, as the assignee of the license for WQAZ(FM) (FCC File No. BALH-901102GZ) and successor in interest to Robert G. Johnston, Trustee, desires to obtain an upgrade in class from A to C2 for WQAZ(FM). A Petition for Rulemaking was filed with the Federal Communications Commission ("FCC") for this purpose, requesting the substitution of FM Channel 292A for Channel 225A at Belzoni to accommodate the substitution of Channel 225C2 for Channel 224A at Cleveland.

During the pendency of this Petition for Rulemaking, the FCC granted Scott's then-pending application for a construction permit on Channel 225A, Belzoni, Mississippi, as a result of which, the Petition for Rulemaking was returned as defective. An unopposed Petition for Reconsideration of this rejection of the Petition for Rulemaking to upgrade WQAZ(FM) is currently pending. Grant of the pending Petition could result in a rescission of the grant of Scott's application for Channel 225A, Belzoni, Mississippi, and/or modification of the Channel 225A, Belzoni, Mississippi, construction permit now held by Scott to specify Channel 292A.

Therefore, the parties have agreed as follows.

1. Scott acknowledges and agrees that he has no objection either to the pending Petition for Reconsideration or to the underlying Petition for Rulemaking. Scott agrees to the modification of his application, or permit, as the Commission may decide, to specify Channel 292A at Belzoni, or such other channel as the Commission may decide to accommodate the requested upgrade of WQAZ(FM).

2. In consideration for Scott's agreement to accept the Commission's decision and a modification of his application or permit to accommodate WQAZ(FM)'s requested upgrade, Contemporary Communications will prepare the engineering exhibit for the minor change application made necessary by the channel modification to specify a new site at no charge to Scott.

3. Within fifteen days of the execution of this Agreement by both parties, Contemporary Communications shall cause a copy of this Agreement to be filed with the FCC for association with the pending Petition for Reconsideration.

4. Until such time as the Commission has ruled on the pending Petition for Reconsideration, and, as the case may be, on the underlying Petition for Rulemaking, Scott agrees to take no action which would prejudice the ability of WQAZ(FM) to achieve its desired upgrade. Contemporary Communications agrees to use its best efforts to pursue the desired upgrade expeditiously.

5. This Agreement shall terminate (a) upon the Commission's approval of the requisite minor change application filed by Scott

pursuant to the Commission's modification of his application or permit in effecting the requested upgrade for WQAZ(FM), or (b) upon the date the Commission's Order effectuating the requested upgrade for WQAZ(FM) becomes final, whichever occurs first.

6. In any event, each party shall have no obligation or responsibility towards the other except as specifically set forth in this Agreement.

AGREED:

CONTEMPORARY COMMUNICATIONS

Larry G. Fuss
Larry G. Fuss

February 21, 1991
Date

Larry R. Scott
Larry R. Scott

MARCH 11, 1991
Date